

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICARDO GARCIA,
ARIANNA ROSALES,
RAUL ZARAGOZA ARELLANO,
and EXMERALDA GARCIA,

Defendants.

) NO. CR-13-2092-LRS-8
) NO. CR-13-2092-LRS-11
) NO. CR-13-2092-LRS-15
) NO. CR-13-2092-LRS-21

) **ORDER DENYING DEFENDANTS'
) MOTION FOR JUDGMENT OF
) ACQUITTAL OR NEW TRIAL**

BEFORE THE COURT is Defendant Exmeralda Garcia's Motion For Judgment of Acquittal or New Trial, ECF No. 1763, filed in CR-13-2092-21 on April 20, 2015. Co-defendants Ricardo Garcia, Arianna Rosales, Raul Zaragoza Arellano joined in the motion. For the reasons stated on the record, and supplemented herein, Defendant Exmeralda Garcia's Motion For Acquittal or New Trial, ECF No. 1763, is respectfully denied.

Based on case law, jury instructions given, and the evidence that was presented at trial, Defendants have

ORDER - 1

1 not met their burden of showing that no jury could find
2 Defendants guilty, beyond a reasonable doubt, of the
3 single conspiracy charged in the indictment of theft
4 from a gaming establishment in excess of \$1000.00.

5 "A single conspiracy exists, as compared with multiple
6 conspiracies, where there is one overall agreement to
7 perform various functions to achieve the objectives of
8 the conspiracy." *United States v. Patterson*, 819 F.2d
9 1495, 1502 (9th Cir. 1987) (quotations and citations
10 omitted). "A single conspiracy may include subgroups
11 and subagreements." *Id.* In contrast, "multiple
12 conspiracies require some evidence of separate
13 agreements and purposes." *United States v. Taren-Palma*,
14 997 F.2d 525, 530 (9th Cir. 1993), overruled on other
15 grounds by *United States v. Shabani*, 513 U.S. 10,
16 15 (1994). It is not necessary that each conspirator
17 "have personal knowledge of each and every actor in the
18 conspiracy, and every act taken in furtherance of the
19 conspiracy" to conclude that the conspirator shares the
20 conspiracy's common purpose. *United States v. Daychild*,
21 357 F.3d 1082,1098 (9th Cir. 2004).

22 Further, the Court finds that the Fed. R. Evid.
23 404(b) evidence regarding the previously rigged "Hot
24 Seat Promotion" was properly admitted, and the
25 government proved Defendant Exmeralda Garcia was fully
26 aware of the conspiracy and others' involvement. The
27 government elicited evidence of her relationship to
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1 Ricardo Garcia and Arianna Rosales. Additionally,
2 Ximena Prieto testified she was in the car with Arianna
3 Rosales when Rosales told preselected winner Prieto
4 that "a lot of people" had enabled her to win and that
5 she had to kick back the majority of her winnings to
6 pay those people. Prieto testified that when she
7 expressed concerns about the situation in the presence
8 of Defendant Exmeralda Garcia, she [Defendant Exmeralda
9 Garcia] explained she had won before and nothing had
10 happened.

11 Accordingly,

12 **IT IS HEREBY ORDERED:**

13 1. Defendant Exmeralda Garcia's Motion For
14 Acquittal or New Trial, **ECF No. 1763**, is respectfully
15 **DENIED**.

16 2. Defendant Ricardo Garcia's Motion for Joinder,
17 **ECF No. 1778**, filed in 13-CR-2092-8-LRS, is **GRANTED**;

18 3. Defendant Arianna Rosales's expedited Motion
19 for Joinder, **ECF Nos. 1780, 1781**, filed in
20 13-CR-2092-11-LRS, are **GRANTED**.

21 4. Defendant Raul Zaragoza Arellano's Motion for
22 Joinder, **ECF No. 1768**, filed in 13-CR-2092-15-LRS, is
23 **GRANTED**.

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1 **IT IS SO ORDERED.** The District Court Executive is
2 directed to enter this order and to provide copies to
3 counsel.

4 **DATED** this 21st day of May, 2015.

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6 ***s/Lonny R. Suko***

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8 LONNY R. SUKO
9 Senior United States District Judge
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